

HOUSE BILL 3043

By Sontany

AN ACT to amend Tennessee Code Annotated, Title 24  
and Title 37, relative to the use of certain  
videotaped statements in cases involving minors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 7, Part 1, is amended by  
adding the following as a new section:

Section 24-7-123.

(a) In any criminal proceeding an audio or video recording containing a  
statement made by a child under the age of thirteen (13) years describing any act  
of sexual contact, sexual abuse or physical abuse performed with or on the child  
by another is admissible in evidence if the court finds in a hearing conducted  
outside the presence of the jury or before a hearing on the charged offense in  
juvenile court that the statement at issue is:

(1) Nontestimonial in nature, satisfying the requirements of  
the confrontation clause of Article I, Section 9 of the Tennessee  
constitution and the Sixth Amendment to the United States constitution;  
and

(2) Would otherwise be admissible under the Tennessee  
rules of evidence.

(b) The court shall make specific findings of fact, on the record, as to the  
basis for its ruling under this section.

(c) For purposes of this section, "nontestimonial" means statements  
made under circumstances objectively indicating that the primary purpose of the  
interview with the child is not to establish or prove facts for a subsequent criminal

prosecution regardless of whether or not those statements are later used to establish or prove facts in a criminal proceeding.

SECTION 2. Tennessee Code Annotated, Section 37-1-609(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) At the initial investigation of child sexual abuse by the child protection team, and at any subsequent investigations as deemed appropriate by the team, when a justifiable suspicion of sexual abuse exists, a videotape recording may be taken of the traumatized victim. The video recording shall be taken for the purpose of indicating the child's physical or mental condition at the time the report is investigated, and to provide comprehensive protective services to the child, including but not limited to, those services set out in § 37-1-607(c)(1), and shall be made available for future reference and for utilization as provided in this part.

SECTION 3. Tennessee Code Annotated, Section 37-1-406, is amended by deleting subsection (g) and substituting instead the following:

(g) At the initial investigation of child abuse and at any subsequent investigation as deemed appropriate by the investigator, audio or videotape recording may be taken of the traumatized victim. Such tape shall be admissible as evidence in cases of child abuse and child sexual abuse if it meets the standards established in § 24-7-123 for the use of recorded statements or if otherwise admissible under the Tennessee rules of evidence. Regardless of whether such recording is used in evidence, it shall be made available for use as provided in § 37-1-405(b)(2).

SECTION 4. This act shall take effect July 1, 2008, the public welfare requiring it.